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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/624,796	07/25/2000	Brig Barnum Elliott	00-4017	7220

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EXAMINER
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FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/624,796

**Applicant(s)**

ELLIOTT ET AL.

**Examiner**

Derrick W. Ferris

**Art Unit**

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18, 20-28 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-18, 20-28 and 30-33 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-13 and 34-38 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. **Claims 1-18, 20-28, and 30-38** as amended are still in consideration for this application. Applicant has amended claims **4, 14, 16, 18, 23, 24, 28, and 33**. Applicant has canceled claims **19 and 29**.

2. Examiner does **not withdraw** the anticipated rejection to *Gessel* for Office action filed **05/06/04**. In addressing applicant's arguments in the response filed 09/27/04, applicant alleges the examiner completely ignored features recited in claim 1 (applicant's remarks top of page 24) in reference to a traffic generator step. The limitation at issue above has been further clarified in the rejection below. Applicant further argues claim 7 (applicant's remarks pages 24-25) in reference to a characteristic matrix that represents changing network transmission characteristics. Examiner has further clarified claim 7 below with respect to the above issue. Applicant further argues claim 11 (applicant's remarks bottom of page 25) in reference to a characteristic matrix that represents changing network transmission characteristics. Examiner has further clarified claim 11 below with respect to the above issue.

3. Examiner **withdraws** the anticipated rejection to *Kubinszky* for Office action filed **05/06/04**. Examiner also withdraws the obvious rejections using *Kubinszky* reference. The rejection was withdrawn due to applicant's claim amendment.

4. Examiner **withdraws** the anticipated rejection to *Jabbarnezhad* for Office action filed **05/06/04**. Examiner also withdraws the obvious rejections using *Jabbarnezhad* reference. The rejection was withdrawn since *Jabbarnezhad* may not teach a node emulator where the emulator is configured to simulate transmission characteristics of the network.

Art Unit: 2663

5. Examiner does **not withdraw** the obviousness rejection to *Gessel* in view of *Schult* for Office action filed 05/06/04. In addressing applicant's arguments in the response filed 09/27/04, examiner notes the motivation is provide using the *Schult* reference.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. **Claims 1, 3, 4, and 6-13** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,889,954A to *Gessel et al.* ("*Gessel*").

As to **claim 1**, see figure 1 where a simulator controller is multiple emulator signal handler (MESH) 11, a node is a emulator 12-16, and an analysis device is either multiple emulator signal handler (MESH) 11 or PSBM monitor 36. In particular, *Gessel* teaches in reference to figure 1, a designer 25 and supervisor 26 as part of a MESH, see e.g., column 7, line 50 – column 8, line 46, that are used in part to configure emulators 12-16. Thus the MESH 11 acts as a simulation controller configured to transmit network configuration information. The nodes configured to emulate at least one of the plurality of network devices are nodes 12-16. These nodes interact with the MESH 11 to talk to other emulated nodes, real nodes 19, protocol simulators 17, or other tools 18. In particular, during protocol testing, once an emulator 12 is configured in reference to figure 2, the emulator is able to send (i.e., generate) and receive traffic through the MESH 11. Thus the nodes have a "traffic generator" configured to generate, in response

Art Unit: 2663

to configuration information. See e.g., column 10, lines 30-64 where protocol simulator 21 converses with a network emulator 21 through the MESH 11 in which the network emulator 21 responds back to protocol simulator 21. Note for the example, the MESH 11 is responsible for configuring the devices and converting between protocols such that the MESH 11 sends configuration data to the emulators.

As to **claim 3**, see e.g., Abstract and column 7, line 50 – column 8, line 46.

As to **claim 4**, in defining the node the traffic control model information is also defined since specific nodes get specific types of traffic.

As to **claim 6**, see e.g., Abstract and column 7, line 50 – column 8, line 46.

As to **claim 7**, see e.g., Abstract and column 7, line 50 – column 8, line 56. In particular, note that the MESH 11 through supervisor 26, is able to add, delete, or modify any node at any time due to changing traffic conditions, see e.g., column 8, lines 47-56. These changes are performed by reconfiguration which is a reasonable but broad interpretation of a “characteristic matrix”.

As to **claim 8**, see e.g., Abstract and column 7, line 50 – column 8, line 46.

As to **claim 9**, see e.g., column 2, lines 13-28.

As to **claim 10**, column 6, lines 53-54.

As to **claim 11**, see e.g., the example presented in at least column 10, lines 30-64 where the emulator 21 is selected for testing, the emulator collects test information which the emulator then responds back to the protocol simulator which in this example is an analysis device.

As to **claim 12**, see figure 1.

As to **claim 13**, see similar rejection to claim 1.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 2, and 34-38** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,889,954A to *Gessel et al.* ("*Gessel*") in view of "Routing in Mobile Ad Hoc Networks" to *Schult et al.* ("*Schult*").

In making a proper obviousness rejection under MPEP 706.02(j), the examiner will address the following four steps:

- a) *the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line numbers where appropriate;*
- b) *the difference of differences in the claim(s) over the applied cited references;*
- c) *the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter; and*
- d) *an explanation why one skilled in the art at the time of the invention was made would have been motivated to make the proposed modification.*

As such to **claim 2**, for step (a) *Gessel* discloses the limitations recited in the base claims.

For step (b) *Gessel* is silent or deficient to the further limitation wherein the network is an ad hoc (*wireless*) network and each of the plurality of devices is an ad hoc network device.

*Schult* teaches the further recited limitation above at e.g., at page 11.

Art Unit: 2663

For step (c), the proposed modification of the above-applied reference(s) necessary to arrive at the claimed subject matter would be to modify *Gessel* to further test an ad hoc network as part of a distributed network.

In order to establish a prima facie case of obviousness for step (d), three basic criteria must be met. The three criteria according to MPEP 706.02(j) are as follows:

*First there must be some suggestion or modification, either in the reference(s) themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.*

As such, for step (d) examiner notes that it would have been obvious to one skilled in the art prior to applicant's invention to include the further limitation wherein the network is an ad hoc network and each of the plurality of devices is an ad hoc network device. In particular, the motivation for modifying the reference or to combine the reference teachings would be that *Schult* teaches that an ad hoc network is dynamically changing and *Gessel* teaches a dynamically changing network that could be wireless. Second, there would be a reasonable expectation of success since the network taught by *Schult* is emulated. Thus the references either in singular or in combination teach the above claim limitation.

As to **claim 34**, see similar rejection to claim 2.

As to **claim 35**, see similar rejection to claim 11.

As to **claim 36**, see similar rejection to claim 14 or 24.

As to **claim 37**, see similar rejection to claim 7.

As to **claim 38**, see similar rejection to claim 8.

Art Unit: 2663

***Allowable Subject Matter***

10. **Claims 14-18, 20-23, 24-28, and 30-33** are allowable.
11. **Claim 5** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 2663

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick W. Ferris  
Examiner  
Art Unit 2663



DWF



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6/28/08